S.B.Criminal Revision Petition No.1181/2007

Rakesh & Anr.
v.
State of Rajasthan

Date of Order :: 20th November, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Rakesh Arora, for the petitioners.
Mr. Vishnu Kachhawaha, Public Prosecutor.

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By this petition under Section 397 read with 401 Cr.P.C. a challenge is given to the order dated 3.10.2007 passed by learned Sessions Judge, Pratapgarh in Sessions Case No.66/2007 framing charges against the petitioner No.1 for the offences under Sections 307/324, 342, 323 IPC and against the petitioner No.2 for the offences under Section 307, in alternative 324 read with Section 34 and 342, 323 IPC. The challenge is given to the order aforesaid to the extent it relates to framing of charge under Section 307 IPC.

This Court by order dated 5.11.2007 called for the record of the case. Same is available and I have examined it.

As per police report, a criminal case was registered at Police Station Chhoti Sadri at the instance of one Shri Nagesh with the facts that on 8.6.2007 at about 08.00 P.M. the petitioners met informant Nagesh at his house and they accompanied to have a cup of tea at restaurant. They proceeded on a

motorbike and while on way some altercations took place between Nagesh and Rakesh (petitioner No.1) in respect of payment of fuel charges. During these altercations Kanhaiyalal (petitioner No.2) caught hold of complainant Nagesh and Rakesh inflicted a knife blow that caused injuries in the palm, cheek and near to ear of Nagesh.

Learned counsel for the petitioners while challenging the order impugned to the extent it relates to framing of charge under Section 307 IPC urged that there is no evidence available on record to show that there was any intention of the petitioners to kill Nagesh.

From the evidence available on record, I found that even if whatever stated in first information report or the statements recorded under Section 161 Cr.P.C. are accepted, no charge punishable under Section 307 IPC could have been framed. All the injuries received by Nagesh are minor and simple and are not on any vital part of the body. From the evidence available on record it also reveals that if the petitioners would have any intention to kill Nagesh, they could have done it as according to informant himself he was caught hold by Kanhaiyalal and Rakesh gave a knife blow. The non giving of any severe and grave injury by knife despite having occasion establishes it well that there was no

intention to kill Nagesh and as such the framing of charge against the petitioners under Section 307 IPC is not well founded.

The revision petition, therefore, deserves acceptance. The same is allowed. The order impugned dated 3.10.2007 is quashed to the extent it relates to framing of charge under Section 307 IPC against petitioner Rakesh and framing of charge under Section 307/34 IPC against petitioner Kanhaiyalal.

( GOVIND MATHUR ),J.

Kkm/ps.